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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,882	12/16/2003	David L. Poole	87286D1	5731
24628	7590	12/16/2004	EXAMINER	
WELSH & KATZ, LTD 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606			NGUYEN, ANTHONY H	
			ART UNIT	PAPER NUMBER
			2854	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/736,882

Applicant(s)

POOLE, DAVID L.

Examiner

Anthony H Nguyen

Art Unit

2854

aw

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 23-30, 34, 35 and 37 is/are pending in the application.
- 4a) Of the above claim(s) 5-7, 12-14, 31-33 and 37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-11, 23-30, 34 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/16/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-4, 8-11, 23-30, 34 and 35 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims of copending Application No. 10/141,322. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2854

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 8, 11, 23-27, 34 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Hamisch et al. (US 5,772,341).

With respect to claims 1, 4, 8, 11, 23 Hamisch et al. teaches a ribbon cartridge 24 having a housing 25 (Hamisch et al., Figs. 2 and 3), a hollow core C1 for receiving a roll of donor ribbon (IR), a clutch 144 having a friction component 145 that engages with the inner surface 146 of the core C1, a resilient component located between the friction component and the one end of the clutch which is externally constrained by a surface 134 of a restraining structure 136, 132. The restraining structure also supports the core as shown in Figs. 12 and 13 of Hamisch et al. With respect to claim 8, Hamisch et al. teaches the use of multi-diametral core as shown in Figs. 12 and 13 of Hamisch et al. Note that the shaft member 137 has many steps to accommodate the core C1.

With respect to claims 23-27 and 35, Hamisch et al. teaches the friction component 145 and the resilient component (between the surfaces 134 and 140) are parts of a common member 144 (Hamisch et al., Fig. 12, col. 5 lines 64-66), the restraining structure 136 which constitutes a support independent of the core C1 and the clutch 144, the roll of ribbon which is supported on a shaft integrated by a shaft member 132 and a shaft 137 (Hamisch et al., Fig. 11, col. 5 line 51) and the common member having a longitudinal opening 145' which receives the shaft.

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2854

(a) a patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-3, 9, 10 and 28 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Hamisch et al. (US 5,772,341) in view of McTaggart (US 5,170,956).

Hamisch et al. teaches all that is claimed, except the common member which is made of elastomer material. McTaggart teaches the use of a rubber ball 44 which is made of elastomeric material which functions as a clutch that releases of energy stored in the elastomeric material. It would have been obvious to one of ordinary skill in the art to modify the ribbon cartridge of Hamisch et al. by substituting the elastomeric material as taught by McTaggart for maintaining of optimal friction between the clutch and the inner surface of the ribbon core in place of the clutch 144 of Hamisch et al. Also, note that the selection of a desired material such as a well-known elastomer would be obvious through routine experimentation in order to get best possible friction between the surfaces of the inner core of the ribbon and the surface of the clutch.

Conclusion

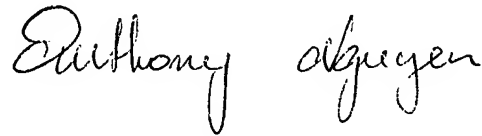
The patents to Danjo, Burnard, Kitsuki and Sampson are cited to show other structures having obvious similarities to the claimed structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Nguyen whose telephone number is (571) 272-2169. The examiner can normally be reached daily from 9 AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld, can be reached on (571) 272-2168. The fax phone number for this Group is (703) 872-9306.

Art Unit: 2854

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld, can be reached on (571) 272-2168. The fax phone number for this Group is (703) 872-9306.

A handwritten signature in cursive script that reads "Anthony Nguyen".

Anthony Nguyen
12/8/04
Patent Examiner
Technology Center 2800